Remarks

Applicants affirm the provisional election of the claims of Group III, i.e., claims 24-35, which election was made during a telephone discussion with the Examiner on September 2, 2004. Consistent with this election, claims 1-23 and 36-50 are cancelled without prejudice to the filing of continuing applications.

In the specification at page 2, Applicants have inserted the correct priority information for this application.

Claims 24, 26, 27, 29, 30, 33, 34, and 35 have been amended. New claims 51-55 have been added. The amended and new claims are fully supported by the specification as filed. Support for these amendments is found in the original claims and the specification at page 33, line 6, to page 38, line 3. No new matter is added by these amendments. With these amendments, the claims pending are claims 24-35 and 51-55.

The claims stand rejected as being obvious under 35 U.S.C. § 103(a) in view of Published International Application WO 98/19165 (Jensen et al.). Jensen et al. does not render the amended claims obvious. The Jensen reference is directed to methods for identifying benzodiazepine receptor ligands with selective anxiolytic properties. Jensen et al., page 3, lines 16-17. The method disclosed by in the reference requires the use of only $\alpha_2\beta_3\gamma_2$ $GABA_A$ receptor subtypes. Jensen et al., page

3, line 19. Specifically, that method requires selecting compounds that are selective agonists at only the $\alpha_2\beta_3\gamma_2$ receptor. Jensen et al., page 3, lines 32-33.

On the other hand, the claimed invention requires the use of $\alpha_3\beta_3\gamma_2$ $GABA_A$ receptor subtypes. The cited reference is silent about this receptor subtype and, in fact, states that various "findings suggest that the $\alpha_2\beta_3\gamma_2$ $GABA_A$ receptor subtype may be the sole mediator of the anxiolytic effect of benzodiazepines." Jensen et al., page 3, lines 4-5. This statement clearly teaches away from using any other receptor, including the $\alpha_3\beta_3\gamma_2$ receptor subtype, in assays for identifying compounds having anxiolytic activity. Another statement in Jensen et al. that teaches away from the invention is found at page 5, lines 25-29. There the reference points out that subtypes containing an α_3 subunit "are known not to mediate selective anxiolytic effects." At best, the Jensen et al. reference could be construed to make it obvious to try using the $\alpha_3\beta_3\gamma_2$ subtype in assays for identifying compounds having anxiolytic activity. Nothing in the reference suggests using the $\alpha_3\beta_3\gamma_2$ receptor subtype in an assay, either alone or in combination with $\alpha_2\beta_3\gamma_2$ subtypes, for determining if a compound will function as an anxiolytic.

Applicants respectfully request reconsideration and withdrawal of the rejection made under 35 U.S.C. § 103(a).

The Applicants urge the Examiner to contact the Applicants' undersigned representative at (312) 913-0001 he believes that a discussion would expedite prosecution of this application.

Respectfully submitted,

Dated: January 13, 2005 By: _____

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